

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Marshall Johnson
Ken Nickolai
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Application for Approval
of an Affiliated Services Agreement Between
Interstate Power and Light Company and RMT,
Inc.

ISSUE DATE: August 11, 2004

DOCKET NO. E,G-001/AI-04-112

ORDER APPROVING AFFILIATED
INTEREST AGREEMENT AS MODIFIED

PROCEDURAL HISTORY

On September 30, 2002, Interstate Power and Light Company (Interstate) filed a petition seeking approval from the Commission to enter into an Agreement with its affiliate RMT, Inc. (RMT). The matter was assigned to Docket No. E, G-001/AI-02-1635.

On October 30, 2002, the Minnesota Department of Commerce (the Department) filed comments recommending that the Commission approve the proposed agreement but limit the approval to one year because Interstate had not issued an Request For Proposals (RFP) and therefore lacked sufficient documentation to substantiate that the affiliate (RMT) would better serve ratepayers than another provider. The Department stated that a one-year period provides adequate time to complete an RFP process.

On December 6, 2002, the Commission issued an Order adopting the Department's recommendations and approving the agreement for a one-year term.

On October 22, 2003, Interstate reported that it had not yet completed a competitive bidding process and requested an extension of the Commission's December 6, 2002 Order to September 30, 2004. Interstate explained that it had initiated a competitive bidding process as suggested by the Department but that the process was taking longer than anticipated. Interstate stated that a major reason for the delay was the Illinois Commerce Commission (ICC) did not approve the agreement until April 2003. Interstate stated that it hoped to have the competitive bidding process completed by the end of the year (2003) and, if the successful bidder was an affiliate, to file a request for approval of the new agreement no later than January 30, 2004. The Company stated that an extension to September 30, 2004 would allow adequate time for the Department, the ICC, and the Commission to review the Company's new affiliate interest filing.

On November 14, 2003, the Department filed comments, concluding that Interstate had made reasonable efforts to comply with the Commission's December 6, 2002 Order and that the Company's request was not contrary to the public interest. The Department recommended that the Commission approve the Company's request.

On November 21, 2003, the Commission issued an Order granting the requested extension to September 30, 2004.

On January 20, 2004, Interstate requested permanent approval of its affiliate interest agreement with RMT.

On April 19, 2004, the Department recommended denial of the petition, concluding that Interstate had failed to meet its burden to demonstrate that the agreement is reasonable and consistent with the public interest as required under Minn. Stat. § 216B.48.

On May 20, 2004, Interstate filed reply comments responding to the concerns raised by the Department.

On June 2, 2004, the Department recommended approval of the proposed agreement, based on the Company's May 20, 2004 explanations and clarifications.

The Commission met to consider this matter on July 29, 2004.

FINDINGS AND CONCLUSIONS

Based on the record, including the parties' comments and reply comments, the Commission concludes that the affiliated interest agreement between Interstate and its affiliate RMT is in the public interest. The Commission therefore will approve the agreement for a period of three years, as recommended by the Department and agreed to by Interstate. The Commission clarifies that any future request by Interstate for continued approval beyond the initial three year period must be supported by data developed through a competitive bidding process.

The Commission notes that the Department had initially recommended that the Commission deny Interstate's petition because

- 1) the agreement as proposed in the Company's initial filing did not have a fixed term but would have continued in force permanently, subject only to termination by the Company, RMT, the Iowa Utilities Board, the Illinois Commerce Commission, and the Commission;
- 2) Interstate did not explain the factors used to evaluate vendor competence or price nor did it explain why RMT was deemed the low bidder; and

3) the record did not indicate why the contract should be awarded to RMT and why the agreement's terms and pricing were reasonable and consistent with the public interest.

The Department was persuaded to support Interstate's petition after receiving Interstate's response, however, and based on the Commission's own review, the Commission finds the Department's change of recommendation appropriate because

1) Interstate has accepted the Department's suggestion that the agreement be limited to a three-year term; and

2) in addition to RMT's qualifications and valuable experience noted by Interstate in its initial filing and reply comments, it appears that RMT can provide the most NO_x reduction at reasonable cost.

The Commission clarifies that recovery of costs incurred pursuant to the agreement is not affected by this Order. Approval of the agreement in this Order does not guarantee that Interstate will be allowed to recover costs incurred pursuant to this agreement. Recovery of such costs is an undecided issue which will be addressed in a future general rate proceeding.

ORDER

1. The Commission hereby approves the affiliated interest agreement between Interstate and RMT for a period of three years.
2. If Interstate wishes to request continued approval beyond the three year period established in Order Paragraph 1, the Company shall support its request by data developed through a competitive bidding process.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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